

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 250

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO THE NEW MEXICO LOTTERY AUTHORITY; TYING THE AMOUNT
OF BONUSES PAID TO LOTTERY EMPLOYEES AND VENDORS TO THE
INCREASE IN THE AMOUNT OF LOTTERY TICKET SALES REVENUES
DELIVERED TO THE LOTTERY TUITION FUND; PROVIDING THAT UNCLAIMED
AND FORFEITED LOTTERY PRIZES BE PAID INTO THE LOTTERY TUITION
FUND; PROHIBITING VIDEO LOTTERY GAMES AND "PAY AT THE PUMP"
TYPE DEVICES AND AUTOMATED TELLER MACHINES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-24-6 NMSA 1978 (being Laws 1995,
Chapter 155, Section 6, as amended) is amended to read:

"6-24-6. POWERS OF THE AUTHORITY.--

A. The authority shall have all powers necessary or
convenient to carry out and effectuate the purposes and
provisions of the New Mexico Lottery Act that are not in

.206942.1

underscoring material = new
[bracketed material] = delete

1 conflict with the constitution of New Mexico and that are
2 generally exercised by corporations engaged in entrepreneurial
3 pursuits, including the power to:

4 (1) sue and be sued;

5 (2) adopt and alter a seal;

6 (3) adopt, amend and repeal bylaws, rules,
7 policies and procedures for the conduct of its affairs and its
8 business;

9 (4) procure or provide insurance;

10 (5) hold copyrights, trademarks and service
11 marks and enforce its rights with respect thereto;

12 (6) initiate, supervise and administer the
13 operation of the lottery in accordance with the provisions of
14 the New Mexico Lottery Act and rules, policies and procedures
15 adopted pursuant to that act;

16 (7) enter into written agreements or contracts
17 for the operation, participation in or marketing or promotion
18 of a joint lottery or joint lottery games with operators of a
19 lottery:

20 (a) in one or more other states;

21 (b) in a territory of the United States;

22 (c) in one or more political
23 subdivisions of another state or territory of the United
24 States;

25 (d) in a sovereign nation;

1 (e) in an Indian nation, tribe or pueblo
2 located within the United States; or

3 (f) legally operated outside of the
4 United States;

5 (8) acquire or lease real property and make
6 improvements thereon and acquire by lease or by purchase
7 personal property, including computers, mechanical, electronic
8 and on-line equipment and terminals and intangible property,
9 including computer programs, systems and software;

10 (9) enter into contracts to incur debt and
11 borrow money in its own name and enter into financing
12 agreements with the state, with agencies or instrumentalities
13 of the state or with any commercial bank or credit provider;

14 (10) receive and expend, in accordance with
15 the provisions of the New Mexico Lottery Act, all money
16 received from any lottery or nonlottery source for effectuating
17 the purposes of the New Mexico Lottery Act;

18 (11) administer oaths, take depositions, issue
19 subpoenas and compel the attendance of witnesses and the
20 production of books, papers, documents and other evidence
21 relative to any investigation or proceeding conducted by the
22 authority;

23 (12) appoint and prescribe the duties of
24 officers, agents and employees of the authority, including
25 professional and administrative staff and personnel, and to fix

.206942.1

underscoring material = new
~~[bracketed material] = delete~~

1 their compensation, pay their expenses and provide a benefit
2 program, including a retirement plan and a group insurance
3 plan; provided that bonus or incentive compensation committed
4 or paid to an officer, agent or employee shall be calculated
5 based on the increase in the amount of lottery ticket sales
6 revenue transmitted to the state treasurer in a fiscal year for
7 deposit in the lottery tuition fund and shall not be calculated
8 based on the authority's gross revenues or other factors;

9 (13) select and contract with lottery vendors
10 and lottery retailers; provided that bonus or incentive
11 compensation committed or paid to a lottery contractor or
12 lottery vendor shall be calculated based on the increase in the
13 amount of lottery ticket sales revenue transmitted to the state
14 treasurer in a fiscal year for deposit in the lottery tuition
15 fund and shall not be calculated based on the authority's gross
16 revenues or other factors;

17 (14) enter into contracts or agreements with
18 state, local or federal law enforcement agencies or private
19 investigators or other persons for the performance of law
20 enforcement, background investigations and security checks;

21 (15) enter into contracts of all types on such
22 terms and conditions as the authority may determine;

23 (16) establish and maintain banking
24 relationships, including establishment of checking and savings
25 accounts and lines of credit;

1 (17) advertise and promote the lottery and
 2 lottery games;

3 (18) act as a lottery retailer, conduct
 4 promotions that involve the dispensing of lottery tickets and
 5 establish and operate a sales facility to sell lottery tickets
 6 and any related merchandise; and

7 (19) adopt, repeal and amend such rules,
 8 policies and procedures as necessary to carry out and implement
 9 its powers and duties, organize and operate the authority,
 10 conduct lottery games and any other matters necessary or
 11 desirable for the efficient and effective operation of the
 12 lottery and the convenience of the public.

13 B. The powers enumerated in this section are
 14 cumulative of and in addition to those powers enumerated
 15 elsewhere in the New Mexico Lottery Act, and no such powers
 16 limit or restrict any other powers of the authority."

17 **SECTION 2.** Section 6-24-21 NMSA 1978 (being Laws 1995,
 18 Chapter 155, Section 21, as amended) is amended to read:

19 "6-24-21. DRAWINGS FOR AND PAYMENT OF PRIZES--UNCLAIMED
 20 PRIZES--APPLICABILITY OF TAXATION.--

21 A. All lottery prize drawings shall be open to the
 22 public. If the prior written approval of the chief executive
 23 officer and the executive vice president for security are
 24 obtained, the selection of winning entries may be performed by
 25 an employee of the lottery. A member of the board shall not

.206942.1

underscored material = new
 [bracketed material] = delete

1 perform the selection of a winning entry. Drawings for a prize
2 of more than five thousand dollars (\$5,000) shall be conducted
3 and videotaped by the security division and witnessed by the
4 internal auditor of the authority or [~~his~~] the internal
5 auditor's designee. Promotional drawings for a prize of less
6 than five thousand dollars (\$5,000) are exempt from the
7 requirements of this subsection if prior written approval is
8 given by the chief executive officer and the executive vice
9 president for security. All lottery drawing equipment used in
10 public drawings to select winning numbers or entries or
11 participants for prizes shall be examined and tested by the
12 chief executive officer's staff and the internal auditor of the
13 authority or [~~his~~] the internal auditor's designee prior to and
14 after each public drawing.

15 B. Any lottery prize is subject to applicable state
16 taxes. The authority shall report to the state and federal
17 taxing authorities any lottery prize exceeding six hundred
18 dollars (\$600).

19 C. The authority shall adopt rules, policies and
20 procedures to conduct fair and equitable drawings and establish
21 a system of verifying the validity of tickets claimed to win
22 prizes and to effect payment of such prizes; provided that:

23 (1) no prize shall be paid upon a ticket
24 purchased or sold in violation of the New Mexico Lottery Act.
25 Any such prize shall constitute an unclaimed prize for purposes

1 of this section;

2 (2) the authority is discharged from all
3 liability upon payment of a prize;

4 (3) the board may by rule provide for the
5 payment of prizes by lottery retailers, whether or not the
6 lottery retailer sold the winning ticket, whenever the amount
7 of the prize is less than an amount set by board rule. Payment
8 shall not be made directly to a player by a machine or a
9 mechanical or electronic device;

10 (4) prizes not claimed within the time period
11 established by the authority are forfeited and shall be paid
12 into the [~~prize~~] lottery tuition fund and shall not be included
13 in the calculation of gross revenues required for transmission
14 to the state treasurer pursuant to the provisions of Subsection
15 B of Section 6-24-24 NMSA 1978. No interest is due on a prize
16 when a claim is delayed;

17 (5) the right to a prize is not assignable,
18 but prizes may be paid to a deceased winner's estate or to a
19 person designated by judicial order;

20 (6) until a signature or mark is placed on a
21 ticket in the area designated for signature, a ticket is owned
22 by the bearer of the ticket, but after a signature or mark is
23 placed on a ticket in the area designated for signature, a
24 ticket is owned by the person whose signature or mark appears,
25 and that person is entitled to any prize attributable to the

.206942.1

1 owner; and

2 (7) the authority is not responsible for lost
3 or stolen tickets."

4 SECTION 3. A new section of the New Mexico Lottery Act is
5 enacted to read:

6 "[NEW MATERIAL] PROHIBITIONS.--

7 A. The authority is prohibited from:

8 (1) offering any style of video lottery game;

9 (2) selling lottery tickets through a self-
10 service device that is part of, shares a display with or is
11 adjacent to a retail petroleum dispenser; or

12 (3) selling lottery tickets through a self-
13 service device that is part of, shares a display with or is
14 adjacent to an automated teller machine.

15 B. As used in this section, "video lottery game"
16 means a game that offers the play of casino-style games,
17 including blackjack, craps, keno, dice games, roulette or
18 poker, on an electronic terminal, through a website or by any
19 other means or device."